

VZCZCXRO8204
RR RUEHCHI RUEHDT RUEHHM RUEHNN
DE RUEHHI #0407/01 1001028
ZNR UUUUU ZZH
R 091028Z APR 08
FM AMEMBASSY HANOI
TO RUEHC/SECSTATE WASHDC 7571
INFO RUEHHM/AMCONSUL HO CHI MINH 4551
RUEHBJ/AMEMBASSY BEIJING 7097
RUCNASE/ASEAN MEMBER COLLECTIVE
RUCPDOG/DEPT OF COMMERCE WASHINGTON DC

UNCLAS SECTION 01 OF 02 HANOI 000407

SIPDIS
(C O R R E C T E D C O P Y - ADDED CAPTIONS)

SENSITIVE
SIPDIS

USTR FOR BISBEE
USDOC FOR ITA/IA SPOONER AND SU

E.O. 12958: N/A
TAGS: [KTEX](#) [ECON](#) [EIND](#) [ETRD](#) [ETTC](#) [VM](#)
SUBJECT: A/S SPOONER ADDRESSES GVN CONCERNS ON APPAREL MONITORING
AND NON-MARKET ECONOMY STATUS

REF: (A) 07 Hanoi 1731 ("Vietnam Frets Over Anti-Dumping");

(B) 07 Hanoi 772 (Commerce Addresses Apparel Concerns)

HANOI 00000407 001.4 OF 002

11. (SBU) Summary: Following a three-day technical exchange on trade remedies with the Vietnamese government (GVN), Import Administration Assistant Secretary David Spooner met with senior Ministry of Industry and Trade (MOIT) officials on April 3 to discuss the Department of Commerce's Import Monitoring Program (IMP) on apparel exports and Vietnam's designation as a non-market economy. Separately, MOIT officials told A/S Spooner that following Vietnam's "significant" economic reform and market liberalization efforts, they hoped that the United States would soon recognize the country as a market economy. The two sides agreed to explore further the establishment of a working group to exchange data and informally discuss where Vietnam stands vis-a-vis U.S. requirements for recognition as a market economy. End Summary.

FRUITFUL EXCHANGE

12. (SBU) At Vietnam's request, Department of Commerce (DOC) Assistant Secretary for Import Administration David Spooner and three other Commerce officials participated in a March 31 - April 2 technical exchange with MOIT officials on U.S. anti-dumping and anti-subsidy laws. During the exchange, Vietnamese officials were particularly interested in U.S. countervailing duty policies, which A/S Spooner thought could stem from their interest in ensuring that current Vietnamese practices, including subsidies to certain regions of Vietnam, are fully compliant with Vietnam's WTO obligations.

13. (U) Throughout the three-day seminar, the MOIT officials lauded the transparency in U.S. trade remedy proceedings, noting that they hope to build similar measures into their practices, particularly given the increased attention on this issue by the Prime Minister and senior GVN officials. Both sides agreed that the exchange helped increase understanding of how the two countries approach trade remedies. Vietnam Competition Administration Department (VCAD) officials expressed their gratitude for the exchange as they work to formulate Vietnam's anti-dumping and countervailing duties policies.

VIETNAM'S EFFORTS TO AVOID AN APPAREL DUMPING CASE

14. (U) In an April 3 meeting, MOIT Vice Minister Bui Xuan Khu outlined Vietnam's efforts to address U.S. anti-dumping concerns:

the GVN has worked closely with the Vietnam Chamber of Commerce and Industry (VCCI) and Customs authorities from both countries to monitor the prices and contract adherence of Vietnamese exports; Vietnam established a mobile investigation unit, which visits exporters to ensure they are complying with their contract obligations; and, the GVN has strictly forbidden any trans-shipments of garments. In addition to this, he added that the Vietnam Textile and Apparel Association (VITAS) (whose Chairman, Le Quoc An, participated in the meeting) cooperated with AmCham members to avoid significant increases in export volumes or decreases in export prices. Because of these efforts, he continued, Vietnam's export prices were comparable to prices from other garment exporters like India, particularly in the categories covered by the monitoring mechanism. Vice Minister Khu hoped that the IMP analysis would reach a similar conclusion.

15. (SBU) A/S Spooner responded by thanking the Vice Minister, MOIT, VITAS and Vietnamese exporters for their cooperation so far with the apparel monitoring program and for the GVN's anti-fraud efforts. He assured Vietnam that the DOC would provide a courtesy notification of the results of the analysis between now and the end of April, when the report on the second six months of import data is due. Stressing that it is premature to offer a definitive conclusion, the Assistant Secretary commented that, generally, the data appears to show that prices of Vietnam exports are comparable to exports from other countries like India, Pakistan, Bangladesh and the Philippines. This will be the penultimate report under the monitoring program, with one more analysis due before the end of 2008.

VIETNAM HOPING FOR A CHANGE IN ITS NME DESIGNATION

16. (U) In a separate meeting, VCAD Director General Bach Van Mung told A/S Spooner that Vietnam has undertaken "significant" economic reforms and market liberalization efforts, and therefore hopes that the United States, the EU and others will soon recognize it as a market economy for purposes of trade remedy proceedings. In a roundtable with officials from various MOIT departments, Mr. Mung sought clarification from A/S Spooner on U.S. legal statutes and procedures for determining whether a country has transitioned to a market economy.

HANOI 00000407 002.4 OF 002

17. (U) A/S Spooner agreed that much has changed in Vietnam since 2002 when Commerce, the sole U.S. agency authorized to conduct these reviews, concluded that Vietnam should be treated as a non-market economy (NME). He then provided a brief overview of the six criteria Commerce uses to evaluate an economy, highlighting that the 2002 review identified particular weaknesses in the categories of currency convertibility and government control over the allocation of resources and the price and output decisions of enterprises. Under the final, "catch-all" criteria, A/S Spooner explained that the DOC looks at factors such as membership in multilateral organizations, the rule of law and corruption. He underscored that DOC examines all six criteria together, and that no single one is determinative. In many cases, he said, the most difficult obstacle for countries is demonstrating that it has not only passed legal reforms, but is actively implementing them.

18. (SBU) The Assistant Secretary stressed that a formal review of a country's economic status must occur in the context of a trade remedy case (a statutory requirement for reasons of transparency), but suggested that it would be helpful for the two sides to hold informal discussions to examine where Vietnam stands vis-a-vis U.S. legal criteria. He pointed to the U.S.- China Structural Issues Working Group as an example, noting that an exchange of information between our governments could help to prepare an informed analysis by Commerce officials for when Vietnam has the opportunity to request a formal review as part of a trade remedy case.

19. (U) Director General Mung welcomed the idea of an informal exchange via formation of a working group. He noted that Vietnam has much to report, including reforms undertaken in preparation for its 2007 accession to the WTO, efforts to increase currency

convertibility and Vietnam's openness to foreign direct investment. The two sides agreed to work closely in the near future to explore possible mechanisms and terms of reference for such a group. A/S Spooner's Chief of Staff reported that she provided Vietnam's Embassy in Washington with the decision memoranda for Commerce's recent decisions to grant Russia and the Ukraine market economy status and would follow up by providing those reports to VCAD.

VCAD APPRECIATES THE HELP

¶10. (U) VCAD Director Mung concluded by thanking Assistant Secretary Spooner and his Commerce colleagues, USAID and the STAR Vietnam program for their capacity building and training programs. VCAD, with a young, inexperienced staff of less than 50, is responsible for enforcing Vietnam's Competition Law, overseeing consumer protection policies, mergers and acquisitions, and now trade remedies. DG Mung said he looks forward to continuing cooperation with Commerce's Import Administration on the issue of trade remedies, as this is a new issue for Vietnam and his staff.

COMMENT

¶11. (SBU) The tone and atmosphere of A/S Spooner's GVN meetings was open, cordial and cooperative. The Vice Minister and other MOIT officials were noticeably less defensive than in prior meetings (Reftels) when discussing the IMP, perhaps due to growing comfort with administration of the monitoring program. In any case, the GVN seems to have shifted its focus from the monitoring program to removing the non-market economy designation. It is unclear whether VCAD requested the technical exchange because it intends to pursue trade remedy cases against other countries, or whether their role will be solely as an internal monitor to ensure that Vietnam remains consistent with its international obligations, including on removal of subsidies.

¶12. (U) A/S Spooner has cleared this cable.

MICHALAK